

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:09CR420
)	
v.)	
)	
JAMES G. SUMMERS,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the Court on defendant's objections (Filing No. [40](#)) to the magistrate judge's order (Filing No. [39](#)), recommending defendant's motion to suppress (Filing No. [23](#)) be denied. The Court has reviewed the briefs submitted to the magistrate judge (Filing Nos. [23](#) and [31](#)), the transcript (Filing No. [37](#)), and Exhibits 1 and 2.

The issue in this case is one of credibility. The State Trooper testified that he was able to observe the defendant's vehicle and that no turn signal was used. The defendant testified that he had turned on his turn signal and disputes the Trooper's ability to have observed whether the signal was on or not. The magistrate judge has had the opportunity to observe the witnesses and listen to the testimony. His finding that the stop in question was authorized is supported by the evidence and will be approved and adopted by the Court. Accordingly,

IT IS ORDERED:

1) The report and recommendation of the magistrate judge is approved and adopted.

2) Defendant's motion to suppress is denied.

3) Trial is scheduled for:

Monday, May 10, 2010, at 9 a.m.

in Courtroom No. 5, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska, or as soon thereafter as may be called by the Court. This will give the parties time to pursue plea negotiations or prepare for trial and will accommodate the schedule of the Court. The ends of justice will be served by continuing this case and outweigh the interests of the public and the defendant in a speedy trial. The additional time between March 30, 2010, and May 10, 2010, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 30th day of March, 2010.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court